

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

REBECCA PALMIERI : Case No.: _____
7513 Hurlinsham Lane :
Maineville, Ohio 45039, : Judge _____
Plaintiff, :
v. :
A-T CONTROLS, INC. :
9955 International Blvd. :
Cincinnati, Ohio 45246, :
Defendant. :

DEFENDANT'S NOTICE OF REMOVAL

Defendant, A-T Controls, Inc. (“A-T Controls”), removes this action from the Court of Common Pleas, Butler County, Ohio, to the United States District Court for the Southern District of Ohio, Western Division. Removal is proper pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446. Defendant was served with a summons and complaint in the state court action on February 24, 2021. A true copy of the complaint, summons, and return of service is attached as Appendix A. Defendant answered the complaint on March 24, 2021. No other pleadings or motions have been filed in the State court action.

In accordance with 28 U.S.C. §1446, Defendant, by counsel, makes the following statements in support of the removal:

1. Pursuant to 28 U.S.C. §1441(a), a Defendant may remove any civil action brought in a State court of which the federal district court has original jurisdiction to the district court for the district and division embracing the place where such action is pending.

2. Pursuant to 28 U.S.C. § 1331, the district court shall have original jurisdiction of a civil action arising under the Constitution, laws, or treaties of the United States.

3. In her complaint, Plaintiff alleges violations by Defendant of the following laws of the United States: (i) the Family and Medical Leave Act, 29 U.S.C. § 2615(a)(1); (ii) the Fair Labor Standards Act, 29 U.S.C. § 215(a)(3); and (iii) the Americans with Disabilities Act, 42 U.S.C. § 12203(a).

4. This Notice of Removal is timely filed, pursuant to 28 U.S.C. §1446(b)(2)(B), because Defendant received the complaint on February 24, 2021.

5. Removal to this Court is proper under 28 U.S.C. §1446(a) because the Southern District of Ohio is the district within which the lawsuit was pending prior to removal.

6. Concurrently with the filing of this Notice of Removal, Defendant served written notice to Plaintiff. A true copy of this Notice of Removal will be filed with the Court of Common Pleas, Civil Division, Butler County, Ohio, in accordance with 28 U.S.C. §1446(d).

7. Defendant's counsel has verified this notice pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. §1446(a).

Accordingly, Defendants requests that the state court action now pending in the Court of Common Pleas, Civil Division, Butler County, Ohio, be removed to the United States District Court for the Southern District of Ohio, Western Division.

Respectfully submitted,

/s/ William K. Flynn

William K. Flynn (0029536)

Julie K. Hopkins

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Counsel for Defendant, A-T Controls, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Notice was served by ordinary U.S. mail, postage prepaid, this 24th day of March, 2021, upon the following:

Katherine Daughtrey Neff, Esq.

Elizabeth Asbury Newman, Esq.

Freking Myers & Reul

600 Vine Street, Ninth Floor

Cincinnati, Ohio 45202

Counsel for Plaintiff, Rebecca Palmieri

/s/ William K. Flynn

William K. Flynn (0029536)